IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 1976 of 2006

DATE OF DECISION : 26.10.2006

Nishan Singh

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Satnam Singh Gill, Advocate,
for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

* * *

Petitioner Nishan Singh has filed this revision petition against the order dated July 17, 2006, passed by Judge, Special Court, Patiala, whereby application filed by the petitioner for releasing the truck bearing registration No. HR-38B-2985 on sapurdari, which was impounded in case FIR No. 34 dated 26.2.2006 under Section 15/61/85 of the NDPS Act, registered at Police Station Patran, has been dismissed.

The petitioner is the owner of the aforesaid vehicle. As per the prosecution version, 20 Kgs. of poppy husk were recovered from this vehicle. The trial in the case is going on. However, same is not likely to conclude soon. During the pendency of the trial, the petitioner moved application for releasing the said vehicle on sapurdari, which has been dismissed by the trial court, vide impugned order on the ground that the provisions of Section 63 of the NDPS Act are prima facie attracted.

Counsel for the petitioner contends that in the aforesaid FIR, a false case has been planted by the police and recovery of 20 Kgs. of poppy husk has been shown from the truck owned by the petitioner. He further submits that the petitioner is owner of this truck and it is being used by him for carriage of goods, therefore, it is the only source of income of the petitioner. He contends that conclusion of trial will take a long time and in case, truck is not released, it will not only damage its condition, but the

petitioner will suffer in his business of carriage of goods. He further submits that the petitioner is ready to give an undertaking that he will not sell or change its condition during the pendency of the case and as and when the court requires the aforesaid truck, he will produce the same in the same condition before the concerned court. Counsel further relied upon a decision of the Supreme Court in ***Sunderbhai Ambalal Desai*** v. ***State of Gujarat,*** 2003 (1) RCR (Crl.) 380 and decision of this Court in ***Roop Chand and Company*** vs. ***State of Punjab,*** 1996 (1) RCR (Criminal) 401.

I have heard counsel for the parties.

Undisputedly, the trial in the aforesaid case is still pending before the trial court. At present, the vehicle is standing in the police station. No useful purpose will be served, if it is allowed to remain in the police station and it will also result into its damage.

Thus, keeping in view the aforesaid facts and the law laid down by the Apex Court in ***Sunderbhai Ambalal Desai's case*** (supra) and in view of the undertaking given by the petitioner, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be given on sapurdari to the petitioner on his furnishing proper undertaking.

Accordingly, this revision petition is allowed, the impugned order dated July 17, 2006, passed by Judge, Special Court, Patiala, is set aside and the vehicle in question is ordered to be released on sapurdari to the petitioner on his executing personal bond in the sum of Rs. 4 lacs with one surety in the like amount and the undertaking to the effect that he will not sell or change the condition of the above said truck and as and when the trial court requires it, the petitioner will produce the same in the same condition at his own cost before the concerned court. He shall also furnish undertaking to the effect that in future, he will not allow his aforesaid vehicle to be used for such an offence.

October 26, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**